

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 8:070. Public notification.

6 RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.201-141.211, Appendix A.,
7 Appendix B, and Appendix C, EO 2009-538 [~~2008-507, 2008-531~~]

8 STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110(2), 40 C.F.R. 141.201-
9 141.211, 42 U.S.C. 300f-300j-26, EO 2009-538

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-110(2)
11 authorize the Secretary of the Cabinet to promulgate administrative regulations for the regulation
12 and control of the purification of water for public and semipublic use. EO 2009-538, effective
13 June 12, 2009, establishes [~~2008-507 and 2008-531, effective June 16, 2008, abolish the~~
14 ~~Environmental and Public Protection Cabinet and establish~~] the new Energy and Environment
15 Cabinet. This administrative regulation establishes the requirements for notification of the public
16 if a public water system violates a provision of 401 KAR Chapter 8.

17 Section 1. General Provisions. The owner or operator of a public water system [~~in violation~~
18 ~~of a provision of 401 KAR Chapter 8~~] shall give public notice as established in 40 C.F.R.
19 Subpart Q, 141.201 through 141.211, Appendix A, Appendix B, and Appendix C[, ~~effective July~~
20 ~~1, 2007~~].

401 KAR 8:070, “Public Notification” approved for promulgation:

Date

Leonard K. Peters, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 26, 2010 at 5:00 P.M. (Eastern Time) at 300 Fair Oaks Lane, Conference Room 301D, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 19, 2010, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2010. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 8:070

Contact Person: Peter Goodman, Assistant Director

(1) Provide a brief summary of:

- (a) What this administrative regulation does:** This administrative regulation requires public water systems to provide notification of a violation to the public in accordance with 40 C.F.R. 141, subpart Q.
- (b) The necessity of this administrative regulation:** Notification to the public when drinking water regulations are violated gives consumers information they need to protect their health.
- (c) How this administrative regulation conforms to the content of the authorizing statutes:** KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This administrative regulation requires public water systems to notify the public when drinking water standards are violated.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation:** This administrative regulation updates federal citations. It does not change the requirements of the existing regulation.
- (b) The necessity of the amendment to this administrative regulation:** This amendment will allow future changes in federal regulatory requirements to be more easily adopted.
- (c) How the amendment conforms to the content of the authorizing statutes:** This administrative regulation updates federal citations. The updated citations will make the administrative regulation conform exactly to federal requirements for public notification.
- (d) How the amendment will assist in the effective administration of the statutes:** This amendment will allow future changes in federal regulatory requirements to be more easily adopted.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to 491 public water systems.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** The proposed amendments to this administrative regulation update the federal citations. The substantive compliance obligations of the regulated entities are unchanged.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** The costs of complying with this

administrative regulation are unchanged.

- (c) **As a result of compliance, what benefits will accrue to the entities identified in question (3):** Public water systems will benefit by from the reassurance that the requirements of this administrative regulation are no more stringent than the federal requirements.
- (5) **Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**
- (a) **Initially:** The requirements of this administrative regulation are unchanged from regulations currently in place.
- (b) **On a continuing basis:** The requirements of this administrative regulation are unchanged from the currently effective administrative regulation. Costs of implementation will remain the same.
- (6) **What is the source of the funding to be used for the implementation and enforcement of this administrative regulation?** The source of funding for the drinking water program is federal funds provided to administer the requirements of the Safe Drinking Water Act.
- (7) **Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:** An increase in fees is not necessary to comply with this proposed amendment.
- (8) **State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:** This administrative regulation does not establish fees or directly or indirectly increase fees.
- (9) **TIERING: Is tiering applied? (Explain why or why not)**
Yes. The requirements of this administrative regulation differ based on the number of persons served by the public water system.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation #: 401 KAR 8:070

Contact Person: Peter Goodman, Assistant Director

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

This administrative regulation applies to public and semipublic water systems. A unit of state or local government that owns a public water system will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

The Safe Drinking Water Act (42 U.S.C. 300f through 300j-26) and 40 C.F.R. 141 Subpart Q, require notification to the public in certain situations. KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue for local governments for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for local governments in subsequent years.

(c) How much will it cost to administer this program for the first year? The amendments to this administrative regulation simply update the federal citations; they will not impose any additional cost for the first year.

(d) How much will it cost to administer this program for subsequent years? The amendments to this administrative regulation simply update the federal citations; they will not impose any additional cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation#: 401 KAR 8:070

Contact Person: Peter Goodman, Assistant Director

1. Federal statute or regulation constituting the federal mandate.

42 U.S.C. Chapter 6A, Subchapter XII, the Safe Drinking Water Act, and 40 C.F.R. 141 Subpart Q

2. State compliance standards.

KRS 224.10-100(28), 224.10-110

3. Minimum or uniform standards contained in the federal mandate.

40 C.F.R. 141, Subpart Q provides comprehensive requirements for public notification when violations to the national primary drinking water standards occur.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate?

No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.